

## UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

FILED IN OPEN COURT  
 ON 6/23/2011  
 Dennis P. Lavarone, Clerk  
 US District Court  
 Eastern District of NC

CR

United States of America	)	
v.	)	
Devon Eric Smith	)	Case No: 5:04-CR-364-1BO
	)	USM No: 50447-056
Date of Previous Judgment: May 4, 2007	)	Defendant's Attorney Thomas P. McNamara
(Use Date of Last Amended Judgment if Applicable)	)	

**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of the defendant under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

**IT IS ORDERED** that the motion is:

DENIED.  GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 220 months is reduced to 168 months.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

**I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)**

Previous Offense Level: 35	Amended Offense Level: 33
Criminal History Category: III	Criminal History Category: III
Previous Guideline Range: 210 to 262 months	Amended Guideline Range: 168 to 210 months

**II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE**

- The reduced sentence is within the amended guideline range.
- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- Other (explain):

**III. ADDITIONAL COMMENTS**

Except as provided above, all provisions of the judgment dated May 4, 2007 shall remain in effect.

**IT IS SO ORDERED.**

Order Date: 6/23/2011

  
 Judge's signature

Effective Date: \_\_\_\_\_  
 (if different from order date)

Terrence W. Boyle, U.S. District Judge  
 Printed name and title